

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
July 23, 2003 Item: 3.c.

File Number  
CP02-038

Application Type  
Conditional Use Permit

Council District  
5

Planning Area  
Alum Rock

Assessor's Parcel Number(s)  
488-11-128

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Elena Lee

Location: Southwest corner of South White Road and Markingdon Avenue (1401 S. White Road)

Gross Acreage: 0.27

Net Acreage: 0.27

Net Density: N/A

Existing Zoning: R-1-5 Residential

Existing Use: Residential

Proposed Zoning: No change

Proposed Use: Church

### GENERAL PLAN

Completed by: EL

Land Use/Transportation Diagram Designation  
Medium Low Density Residential

Project Conformance:  
☒ Yes ☐ No  
☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: EL

North: Residential

R-1-8 Residential

East: Commercial and Residential

CP Commercial Pedestrian and R-1-8 Residential

South: Residential

R-1-8 Residential

West: Residential

R-1-8 Residential

### ENVIRONMENTAL STATUS

Completed by: EL

☐ Environmental Impact Report found complete  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☒ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by:

Annexation Title: Capitol No. 47

Date: 2/1/96

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval  
☐ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date:

Approved by: \_\_\_\_\_  
☐ Action  
☐ Recommendation

### APPLICANT/OWNER/DEVELOPER

Holy Cross Romanian Orthodox Church  
Attn: Rev. Fr. Constantin Lapustea  
P.O. Box 53694  
San José, CA 95153

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**PUBLIC AGENCY COMMENTS RECEIVED**

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**Completed by: EL****Department of Public Works**

See attached

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**Other Departments and Agencies**

See attached for memorandum from Fire Department, County of Santa Clara and the Airport Land Use Commission

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**GENERAL CORRESPONDENCE**

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See attached for an email correspondence

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant, Holy Cross Romanian Church, is requesting a Conditional Use Permit (CUP) to allow the operation of a church on a 0.27 gross acre site located in the R-1-5 Residence Zoning District. The Zoning Code requires a CUP for a church use in this zoning district. The Code also requires either a Site Development Permit, a Special Use Permit or a Conditional Use Permit for the conversion of a one-family dwelling in any district. Granting the subject CUP would also would allow the conversion of the existing residence.

The Conditional Use Permit will also serve as a Site Development Permit for modifications to the site including a 220 square foot addition to the existing structure, interior remodeling, façade changes and several site improvements. The project would include construction of ten parking spaces and the demolition of a 570 square foot carport. The structure will undergo interior modifications to accommodate church use with seating for 40 people. The applicant proposes to hold services on Sunday and does not propose any use during the weekday.

The project is located at the corner of South White Road and Markingdon Avenue. Single-family residential uses are located to the north, south and west. Commercial Uses are located directly across South White Road to the east.

**ENVIRONMENTAL REVIEW**

The Director of Planning, Building and Code Enforcement has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act (CEQA). The proposed project is limited to a minor expansion of an existing structure and the introduction of a use that would not result in any environmental impacts.

## **GENERAL PLAN CONFORMANCE**

This project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that new Public/Quasi-Public uses are allowed in any General Plan designation if the use is compatible with surrounding uses and is consistent with City policy. Staff has determined that the proposed use is compatible with adjacent uses and consistent with City policy regarding the location of churches.

## **ANALYSIS**

The primary issues associated with this project are compatibility with the surrounding neighborhood, the conversion of this site from a residential use to a non-residential use and conformance to the Church Location Policy.

### **Land Use Compatibility**

Land use compatibility is of potential concern in that the project site is located in proximity to a residential neighborhood. The subject site however is located on the edge of the residential neighborhood, on fairly busy street. The properties located across White Road are in commercial Zoning districts, have commercial General Plan designations, and are developed with commercial uses significantly more intense than the proposed church.

Furthermore, the proposed church is very small in scale, with a primary worship space designed to accommodate only 40 people. The church is intended to serve the needs of a small population of Romanian Orthodox practitioners who would use the facility primarily on Sundays. This congregation prefers a very specific type of church architecture and has proposed a structure consistent with that criteria. The proposed building would only be 2,110 square feet in area and 25 feet in height at its highest point. This architecture and scale would be consistent with the height and size of neighboring residential uses, and much smaller than the commercial uses nearby. A significantly larger church on this corner lot might be considered compatible with residential uses.

The project conforms to the setback requirements of the subject residential zoning district, includes the required number of parking spaces for the proposed 40 practitioners and will provide substantial new landscaping. The applicant has indicated that for special events (e.g. Orthodox New Year and Easter celebrations), a facility in a different location will be used to accommodate the larger congregations anticipated on those dates as is currently the practice. The new church would also include a multi-purpose "Gathering" room adjacent to the primary worship space. Use of this space would be restricted to the times when the sanctuary is not in operation. The development also would provide landscaping and 7-foot tall walls along the property perimeter adjacent to residential neighbors, to provide additional buffering.

### **Residential Conversion**

The church is consistent with City Council Policy 6-11, Conversion of Residential Structures to Non-residential Uses. The project does not pose nuisance problems for adjoining properties and is aesthetically harmonious with the surrounding development. The project includes the required number of parking spaces (one space per four seats) on the site, and street parking is available on two street frontages of this corner property.

**Church Location Policy**

The project is generally consistent with all the criteria outlined in the Church Location Policy with the exception of the guideline for a site that is at least one acre in area. Many new churches in San José are located on lots less than an acre in size. As discussed above, the project has also been carefully designed to be compatible with the neighborhood. Given the small scale of the project and the commercial uses to the east, the proposed location of a church at this site will not result in conflicts with surrounding uses. The project is compatible with the surrounding neighborhood, provides all required parking and circulation onsite and provides substantial landscaping. The development is providing a 25 foot setback from all property lines and all setback areas are landscaped.

**CONCLUSION**

As stated above, the project fully complies with the requirements of the City's Zoning Ordinance and adequately conforms to City Council Policies. The conversion of this residence to a church will not have any negative impact upon adjacent residential uses.

**PUBLIC OUTREACH**

A community meeting for the project was held on November 18, 2002 at Mount Pleasant High School. One neighbor, the property owner of the parcel located directly south of the project site, attended the meeting. The resident expressed support for the project, and requested a wall built that would be tall enough to provide adequate buffering. The applicant has agreed to provide a wall along the interior perimeter.

One email was received from a person opposed to the project with concern regarding the amount of traffic generated by the church, and the security problems associated with a building that would be empty much of the time. In evaluation of the subject property, however, staff concludes that the project would not generate a significant amount of traffic, and that the proposed site improvements could improve safety in the area. Remodeling of the existing structure and removal of the carport will significantly upgrade the site conditions and improve visibility into the site. The applicant has put considerable attention and care into the design of the proposed structure, and staff believes the property will be maintained in a manner which will discourage crime on-site.

A notice of the public hearing was distributed to the owners and tenants of all properties within 500 feet of the project site. Planning staff received one email comment on this project. The email has been attached to the staff report.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
2. The project site is located in the R-1-5 Residential Zoning District.
3. Under the provisions of Section 15301 of the *State Guidelines for Implementation of the California Environmental Quality Act* (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project site is 0.27 acres in area.
5. The project site is presently occupied with a one-story, single-family detached residential structure, approximately 1,890 square feet in area.
6. The project site is located on the southeast corner of South White Road and Markingdon Avenue. There are primarily single-family residential uses to the north, south and west. Commercial and residential uses are located to the east of the site.
7. The applicant is proposing a Conditional Use Permit (CUP) to convert a single-family residence to a church. A Conditional Use Permit is required in all Zoning Districts for a church and for conversion of a single-family residence.
8. This CUP will also serve as a Site Development Permit for modifications to the building and the project site, including the a 220 square foot addition, addition of parking spaces at the rear of the building and landscaping. The resulting , single-story structure, approximately 2,110 square-foot in area, will also undergo interior modifications to accommodate church use with seating for 40 persons.
9. The Zoning Ordinance requires church uses to provide one parking space for every four seats in the building. The project proposes a maximum of 40 seats and is providing a total of 10 on-site parking spaces. Use of other rooms in the church is restricted to times when the sanctuary is not fully occupied.

This Planning Commission concludes and finds, based upon an analysis of the above facts, that:

1. The proposed project is consistent with the adopted *San José 2020 General Plan Land Use/Transportation Diagram* designation of High Density Residential (12-25 DU/AC).
2. The proposed project complies with all provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
4. The project is in compliance with City Council Policy 6-21, *Church Location Policy*.

5. The project is in compliance with City Council Policy 6-11, *Conversion of Residential Structures to Non-Residential Uses*. Under the provisions of Section 20.80.440(A) of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.
  - a. This permit includes a 570 square foot accessory structure in the R-1-5 Residential Zoning District.
  - b. The Director of Planning has considered the following in evaluating the proposed demolition.
    - 1) The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
    - 2) The failure to approve the permit would jeopardize public health, safety or welfare.
    - 3) The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
    - 4) Both inventoried and non-inventoried buildings, sites and districts of historical significance should not be negatively impacted.
    - 5) Rehabilitation or reuse of the existing building would not be feasible
    - 6) The approval of the demolition of the building should facilitate a project which is compatible with the surrounding neighborhood.
    - 7) The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.
  - c. Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:
    - 1) The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
    - 2) The proposed project is in conformance with the California Environmental Quality Act.
    - 3) The benefits of permitting the demolition, removal or relocation of the subject building outweigh the impacts of the demolition, removal or relocation.
  - d. Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440(B) of the San José Municipal Code, the demolition of the subject structure.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners or the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

## CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Romanian Orthodox Episcopate of American. Holy Cross Church," dated July 11, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
  - a. Landscape plans – provide information on species and size of new trees to be provided.
  - b. Lighting plan – provide information on the location and equipment for all proposed lighting.
4. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
6. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
7. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.



8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 12 feet above grade.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Roof Equipment.** All roof equipment shall be screened from view.
11. **Outside Storage.** No outside storage is permitted.
12. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
13. **Street Trees.** Street trees shall be planted along the Moorpark Avenue street frontage to the satisfaction of the Director of the Department of Streets and Traffic. A permit for this is required from the Department of Streets and Traffic, (408) 277-4373.
14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
15. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16157) to the satisfaction of the Director of Public Works:
  - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
  - b. *Storm Water Management.* The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of storm water pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San José, California 95110-1795. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.
  - c. *Storm Water Stenciling.* All drain inlets shall be labeled "No Dumping--Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.

d. *Geology:*

- 1) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- 2) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the Project Engineer and/or City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

e. *Undergrounding:* The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to S. White Road prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage. However, it will increase in the near future.)

f. *Sanitary.* Applicant shall submit a more detailed sanitary sewer plan prior to approval of a Public Works clearance.

g. *Storm.* Applicant shall submit a detailed storm sewer plan prior to approval of a Public Works clearance that shall indicate the following: 1) The overland release path in arrows; 2) That the release path is paved; 3) That on-site ponding will be less than one foot; and 4) Finished floor elevations must be one foot higher than the overland release elevation.

h. *Flood:* Zone AO, Depth 1 ft:

- 1) The project must comply with the Substantial Improvement Policy for improvements to existing structures in a Special Flood Hazard Area.
- 2) If the cost of the proposed improvements exceed 50% of the current market value of the existing structure, then the entire structure must fully comply with the following City Floodplain Management requirements:
  - a) Elevate the lowest floor of the structure to 1 foot above the highest existing adjacent grade to the proposed structure or floodproof to the same elevation.
  - b) If the structure is elevated, an Elevation Certificate (FEMA Form 81-31) based on construction drawings is required prior to the issuance of a building permit. Consequently, after the improvement is completed, an Elevation Certificate based on finished construction is required prior to issuance of an occupancy permit

- c) If the structure is floodproofed, a Floodproofing Certificate (FEMA Form 81-65), and floodproofing details are required prior to the issuance of a Public Works Clearance.
  - d) If applicable, provide a minimum of two openings per enclosed space below the base flood elevation. Each opening shall be able to automatically equalize the lateral pressure of the floodwaters. The bottom of each opening shall be placed within twelve inches of finished grade. The total net area of such openings shall not be less than one square inch per one square foot of enclosed area.
- 3) Building support utility systems such as HVAC, electrical, and plumbing systems must be elevated above the base flood elevation or protected from flood damage.
- i. *Electrical:*
- 1) Installation/relocation/relamping of electroliers may be required and will be determined at the improvement plan stage.
  - 2) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- j. *Landscape:*
- 1) Install street trees within the public right-of-way along the entire street frontage per City standards.
  - 2) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
  - 3) Contact the City Arborist at (408) 277-2756 for the designated street tree.
- k. *Street Improvements:*
- 1) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - 2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
  - 3) Remove and replace curb and gutter along Markingdon Ave. frontage with City Standard.
  - 4) Widen sidewalk to meet ADA requirements adjacent to the utility pole on S. White Road.
  - 5) Close unused driveway cut(s).

- 6) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
  - l. *Reimbursement*: The developer will be required to reimburse the City for costs advanced for the construction of street improvements along S. White Road in accordance with City Ordinance #19663.
  - m. *Minor Improvement Permit*: The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
  - n. *Complexity Surcharge (In-Fill)*: This project has been identified as an in-fill project and as such is subject to the following: Based on established criteria, the public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement stage.
16. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans*. This permit file number, CP02-038, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans With Disabilities Act*. The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
17. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
18. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
19. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.

20. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
21. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
22. **Church Seating.** No more than 40 seats shall be provided in the sanctuary at any one time.
23. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
24. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
25. **Gathering Room/Social Hall.** The area indicated as a "Gathering Room" on the approved site plan shall not be used concurrently with the "Sanctuary".

#### CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
  2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 350, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
    - a. A violation of any conditions of a Development Permit, Development Variance, Development Exception or other approval was not abated, corrected or rectified within the time specified on the notice of violation; or
    - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
    - c. The use as presently conducted creates a nuisance.
- c: Building Division (2)  
Engineering Services

## Attachments